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EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,260

Applicant(s)

RUSSO, VITALIANO

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/18/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: KNOT OF A RETAINING NET.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if

the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.
- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are

solved by the applicant's invention. This item may also be titled "Background Art."

- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if

an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

2. The disclosure is objected to because of the following informalities:

In the specification, page 2 (line 12) recites "The above problem is solved by a method according to Claim 1". This should be deleted. The specification is intended to support and breath life into the claims, not vice versa. Appropriate correction is required.

Claim Objections

3. Claims 1-3, 5, 7-9 and 11-13 are objected to because of the following informalities:

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Claim 1 (line 1) recites "knots, such as rock and avalanche fences, wherein". It should recite --knots wherein--.

Claim 1 (line 4) recites "it comprises". It should recite --the method comprises--.

Claim 1 (line 5) recites "with same". It should recite --each with the same--.

Regarding claim 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d). Claim 2 (line 1) recites "of of a retaining net (1), such as rock

or avalanche fence and the like, of the type comprising". It should recite --of a retaining net (1) comprising--.

Claim 2 (line 6) recites "wigs close to". It should recite --wings close to--.

Claim 2 (line 7) recites "wigs (7b,7c)". It should recite --wings (7b,7c)--.

Claim 2 (line 8) recites "wigs (8b,8c)". It should recite --wings (8b,8c)--.

Claim 3 (line 2) recites "wig (7b) of the U element". It should recite --wing (7b) of the first U element--.

Claim 3 (line 3) recites "wig (8b)". It should recite --wing (8b)--.

Claim 5 (line 2) recites "wig (7c)". It should recite --wing (7c)--.

Claim 5 (line 3) recites "wig (8c)". It should recite --wing (8c)--.

Claim 7 (line 3) recites "wigs (7b,8b) of said U element". It should recite --wings (7b,8b) of said U elements--.

Regarding claim 8, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Claim 8 (line 2) recites "net (1), such as rock or avalanche fence and the like, characterized in that it comprises". It should recite --net (1) characterized in that the junction comprises--.

Claim 9 (line 2) recites "wig (7b)". It should recite --wing (7b)--.

Claim 9 (line 3) recites "wig (8b)". It should recite --wing (8b)--.

Claim 11 (line 2) recites "wig (7c)". It should recite --wing (7c)--.

Claim 11 (line 3) recites "wig (8c)". It should recite --wing (8c)--.

Claim 12 (line 3) recites "wigs (7b,8b)". It should recite wings --(7b,8b)--.

Claim 13 (line 3) recites "wings (7b,8b)". It should recite --wings (7b,8b)--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tesac Corp (JP 2000-178925).

As to claim 1, Tesac Corp discloses a method for making retaining net knots wherein a knot comprises a first **4** and a second **3** rope crossing over each other and a junction binding the ropes, characterized in that the method comprises the steps of placing a first and a second U elements **16A** astride the first rope, each with the same orientation and close to the second rope on opposite sides thereof, linking the ends of the first U element to the ends of the second U element by means of a bridge element **16B** overlying the second rope, and clamping the bridge element on the second rope (Figures 9-10b).

As to claim 2, Tesac Corp discloses a knot of a retaining net comprising a first **4** and a second **3** rope crossing over each other and a junction for binding the ropes together, characterized in that the junction comprises a first and a second U element **16A** astride the first rope, with equally oriented wings close to the second rope on

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opposite sides thereof, a bridge element **16B** linking the ends of the wigs of the first U element to the adjacent ends of the wigs of the second U element, and overlying the second rope; and clamping means **16C** for clamping the bridge element on the second rope (Figures 9-10b).

As to claim 3, Tesac Corp discloses a knot characterized in that the bridge element **16B** comprises an arch element **16B** linking an end of a wing of the first U element **16A** to an adjacent end of a wing of the second U element **16A** (Figure 10B).

As to claim 4, Tesac Corp discloses a knot characterized in that the arch element **16B** is formed integrally (formed so as to act as a single unit) with the first U element **16A** and with the second U element **16A** (Figure 10b).

As to claim 5, Tesac Corp discloses a knot characterized in that the bridge element **16B** comprises a yoke linking an end of a wing of the first U element **16A** to an adjacent end of a wing of the second U element **16A** (Figure 10b).

As to claim 6, Tesac Corp discloses a knot characterized that the clamping means **16C** comprise two nuts screwing on the ends of two wings of the U elements **16A** (Figure 10b).

As to claim 8, Tesac Corp discloses a junction for binding two ropes together in a knot of a retaining net characterized in that the junction comprises a first and a second U elements **16A**, laid side-by-side and equally oriented, and a bridge element **16B** linking the ends of the first U element to the adjacent ends of the second U element, used to close the U elements, and clamping means **16C** of the bridge element (Figures 9-10b).

As to claim 9, Tesac Corp discloses a junction characterized in that the bridge element **16B** comprises an arch linking an end of a wing of the first U element **16A** to an adjacent end of a wing of the second U element **16A** (Figure 10b).

As to claim 10, Tesac Corp discloses a junction characterized in that the arch **16B** is formed integrally (formed so as to act as a single unit) with the first U element **16A** and the second U element **16A** (Figure 10b).

As to claim 11, Tesac Corp discloses a junction characterized in that the bridge element **16B** comprises a yoke linking an end of a wing of the first U element **16A** to an adjacent end of a wing of the second U element **16A** (Figure 10b).

As to claim 12, Tesac Corp discloses a junction characterized in that the clamping means **16C** comprise two nuts screwing on the ends of two wings of the U elements **16A** (Figure 10b).

6. Claims 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Parkin (US 2,079,034).

As to claim 8, Parkin discloses a junction for binding two ropes together in a knot of a retaining net characterized in that the junction comprises a first and a second U elements **8,9,10**, laid side-by-side and equally oriented, and a bridge element **7,11** linking the ends of the first U element to the adjacent ends of the second U element, used to close the U elements, and clamping means **13** of the bridge element (Figure 2).

As to claim 9, Parkin discloses a junction characterized in that the bridge element comprises an arch **7** linking an end of a wing of the first U element **8,9,10** to an adjacent end of a wing of the second U element **8,9,10** (Figure 2).

As to claim 10, Parkin discloses a junction characterized in that the arch 7 is formed integrally (formed so as to act as a single unit) with the first U element 8,9,10 and the second U element 8,9,10 (Figure 2).

As to claim 11, Parkin discloses a junction characterized in that the bridge element comprises a yoke 11 linking an end of a wing of the first U element 8,9,10 to an adjacent end of a wing of the second U element 8,9,10 (Figure 2).

As to claim 12, Parkin discloses a junction characterized in that the clamping means 13 comprise two nuts screwing on the ends of two wings of the U elements 8,9,10 (Figure 2).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tesac Corp in view of Gore (US 1,781,458).

As to claim 7, Tesac Corp discloses a knot characterized in that clamping means 16C comprise two nuts screwing on the ends of the U elements 16A instead of two heads formed through riveting in correspondence of the ends of two wings of the U elements (Figure 10b).

Gore discloses a knot characterized in that clamping means comprise two nuts screwing on the ends of bolts 9 or two heads formed through riveting in correspondence

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of the ends of rivets **9** (Figure 1, lines 35-41). Inasmuch as the references disclose nuts and rivet heads as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

As to claim 13, Tesac Corp discloses a junction characterized in that clamping means **16C** comprise two nuts screwing on the ends of the U elements **16A** instead of two heads formed through riveting in correspondence of the ends of two wings of the U elements (Figure 10b).

Gore discloses a junction characterized in that clamping means comprise two nuts screwing on the ends of bolts **9** or two heads formed through riveting in correspondence of the ends of rivets **9** (Figure 1, lines 35-41). Inasmuch as the references disclose nuts and rivet heads as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

9. Claim 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkin in view of Gore.

As to claim 13, Parkin discloses a junction characterized in that clamping means **13** comprise two nuts screwing on the ends of the U elements **8,9,10** instead of two heads formed through riveting in correspondence of the ends of two wings of the U elements (Figure 2).

Gore discloses a junction characterized in that clamping means comprise two nuts screwing on the ends of bolts **9** or two heads formed through riveting in

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correspondence of the ends of rivets 9 (Figure 1, lines 35-41). Inasmuch as the references disclose nuts and rivet heads as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to junction assemblies:

Knighton (US 6,347,904), Propst (US 615,304) and Tinnerman (US 2,929,121) are cited for pertaining to assemblies comprising U elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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